United Nations E/C.19/2010/12/Add.11

Economic and Social Council

Distr.: General
16 March 2010
English
Original: Spanish

Permanent Forum on Indigenous Issues
Ninth session
New York, 19-30 April 2010
Items 3 and 4 (a) of the provisional agenda*

Discussion on the special theme for the year: "Indigenous peoples: development with culture and identity: articles 3 and 32 of the United Nations Declaration on the Rights of Indigenous Peoples"

Human rights: implementation of the United Nations Declaration on the Rights of Indigenous Peoples

Information received from Governments

Ecuador

Summary

The present report contains the responses of the Government of Ecuador to the questionnaire sent to Member States concerning the recommendations of the eighth session of the Permanent Forum on Indigenous Issues.

* E/C.19/2010/1.

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Responses from Ecuador to the questionnaire addressed to Governments by the United Nations Permanent Forum on Indigenous Issues

I. Question 1

Response to recommendations addressed to Governments under one or more items under the mandate/agenda[1] of the Permanent Forum at the Eighth Session and to recommendations of previous sessions (if they have not been addressed in previous reports).

1. With regard to recommendation 9 on the Yasuni-ITT initiative, the Government of the Republic of Ecuador, led by economist Rafael Correa Delgado, undertook to keep a significant proportion of its proven oil reserves, amounting to 850 million barrels of crude oil, in the ground. The initiative is expected to yield three very significant benefits: (a) protecting the home of indigenous peoples living in voluntary isolation, namely, the Tagaeri-Taromenane and indigenous Huaorani peoples who live in Yasuni National Park; (b) preventing pollution by halting the emission of 410 million tons of carbon dioxide (CO_2) into the atmosphere; and (c) conserving biodiversity. In order to strengthen the national operational infrastructure needed to carry out the Yasuni-ITT initiative, a technical committee has been established, in addition to a political committee and a negotiation team chaired by the Minister of Coordination for National and Cultural Heritage, Maria Fernanda Espinosa.

2. These measures are undertaken in implementation of the provisions of the United Nations Declaration on the Rights of Indigenous Peoples, and are based on the Government's objectives of protecting the environment, conserving ecosystems and biodiversity, safeguarding the integrity of genetic heritage and preventing environmental damage (Presidential Decree No. 847). Article 14 of the Political Constitution of Ecuador upholds those objectives as being in the public interest, and under Presidential Decree No. 882, they are also considered part of the State's essential duty to protect the country's natural heritage and promote sustainable development in order to allow citizens to live well. Moreover, the objectives are enshrined in article 3 of the Constitution and further underscored by the fact that the Yasuni-ITT initiative is a flagship project for Government environmental policy (Presidential Decree No. 1572). The Preamble to the Constitution also reflects those aims, calling for a new kind of civil coexistence amidst diversity and in harmony with nature, in order to achieve the goal of living well, or *sumak kawsay*.

3. In addition, the Ministry of the Environment has concluded management agreements in order to harmonize the conservation of existing natural resources in protected areas and the presence of peoples who have inhabited those areas for generations. The first agreement was concluded between the Cuyabeno Wildlife Reserve and the Siona, Cofán, Kichwa and Shuar peoples. Since 1994, agreements have been concluded with six of the seven indigenous groups living on the Reserve. Agreements have also been concluded with: the Kichwa community of Oyacachi and the Cofán community of Sinangoe, both residing in the Cayambe-Coca

[1] The following paragraphs of document E/2009/43 contain recommendations addressed to States: 9, 15, 16, 19-21, 23, 30, 31, 33, 34, 36-40, 47, 48, 52-62, 67, 79-83, 86, 88, 94 and 97-99.

Ecological Reserve; the Kichwa communities residing in the Limoncocha Biological Reserve; and the Kichwa and Huaorani communities residing in the environs of Yasuní National Park.

4. With respect to recommendation 33, the Ministry of Coordination for Cultural and Natural Heritage has provided technical assistance under its Development and Cultural Diversity Programme to Reduce Poverty and Promote Social Inclusion,[2] in coordination with the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the United Nations Development Programme (UNDP), to ensure the incorporation of an intercultural perspective into the national development plan. The plan, entitled "National Plan for Living Well 2009-2013, Building a Plurinational and Intercultural State",[3] is the Government's main instrument for coordinating public policies with public administration and investment. Achievement of the plan's 12 national strategies and 12 national goals will consolidate the changes aspired to by the Government and people of Ecuador in order to achieve the goal of living well, (*sumak kawsay*). Goals seven and eight address the intercultural perspective, a cross-cutting element of the plan.

5. Specific activities and measures include: (a) the provision of technical assistance for organizing and conducting a preparatory workshop for the eighth session of the Permanent Forum on Indigenous Issues (Permanent Forum); (b) funding to enable two women delegates to participate in the session of the Permanent Forum in New York, one a representative of the Secretariat of Peoples, Social Movements and Citizen Participation and the other a representative of the women's unit of the Confederation of Indigenous Nationalities of Ecuador (CONAIE); and (c) convening the second National Conference of Afro-Ecuadorian Women entitled *Más Caras de Mujer II* in Esmeraldas and the National Conference of Indigenous Women of the Amazon in Sucumbíos. The workshops held in Esmeraldas and Sucumbíos provided inputs on the inclusion of a gender perspective in intercultural public policy and on the development of the new institutional culture being forged in Ecuador through the Equality Councils. In addition, alliances were established with such institutions as the National Secretariat for Migrants.

6. Similarly, the Ministry of Coordination for Cultural and National Heritage, under its Development and Cultural Diversity Programme and in coordination with the United Nations Development Fund for Women (UNIFEM), provided technical assistance for designing a system to monitor and follow up on gender mainstreaming in national planning and for constructing a monitoring and follow-up system designed by the National Secretariat for Planning and Development.

7. With respect to recommendation 34, the Government has engaged actively in the midterm evaluation of activities for the Second International Decade of the World's Indigenous People and submitted a report that provides an overview of its commitment to the welfare of indigenous peoples and nationalities.

8. In relation to recommendation 37, and in particular the principle of free, prior and informed consent of indigenous peoples, the constitutional framework provided by the Secretariat of Peoples, Social Movements and Citizen Participation equips the Government to build a State that is both intercultural (in which different cultures

[2] http://www.ministeriopatrimonio.gov.ec/index.php/es/interculturalidad.

[3] To read the complete National Plan (in Spanish) visit http://www.senplades.gov.ec/web/senplades-portal/plan-nacional-para-el-buen-vivir-2009-2-13.

and/or persons of different backgrounds coexist on a basis of respect, fairness, equality, justice and solidarity) and plurinational (in which the State recognizes the existence and coexistence of various nationalities and peoples within a unitary State). Furthermore, the National Secretariat for Planning and Development is currently working on issues relating to territory, public policy and institutions, and has proposed measures that address the concerns of peoples and nationalities in all three areas.

9. With respect to recommendation 40, the Ministry of Coordination for Cultural and National Heritage, under its Development and Cultural Diversity Programme, hired eight researchers to study indigenous justice systems, with a view to establishing a legal framework on that basis. The researchers hailed from the provinces in which the study was conducted, namely, Chimborazo province (highland Kichwa communities), Sucumbíos province (Cofán, Secoya and eastern Kichwa communities) and Esmeralda province (Chachi, Epera and Afro-descendent communities). The results of this study will provide input for a draft law on coordination and cooperation between the civil and indigenous justice systems.

10. Similarly, with regard to implementation of the national development plan and the strategies for achieving the Millennium Development Goals at the local and national levels, the document entitled "Millennium Development Goals Status Report 2008: Indigenous Nationalities and Peoples of Ecuador" was published. The document was formally launched in Quito, Lago Agrio and Chimborazo, and presentations were made to indigenous representatives from different provinces and representatives of the Government, the Ecuadorian Agency for International Cooperation (AGECI) and UNDP.

11. As for recommendation 80, the President of the Republic, through Decree No. 60, approved the Plurinational Plan to Eliminate Racial Discrimination and Ethnic and Cultural Exclusion and the programme for its implementation. The plan aims to eradicate the various forms and systematic practice of racial discrimination and racial, ethnic and cultural exclusion in order to promote plural, intercultural and inclusive citizenship through State public policy. The plan was put together by means of a participatory process that involved the holding of national workshops. The Ministry of Labour Relations, the Ministry of Coordination for Cultural and National Heritage, the Secretariat for Communication and the Secretariat of Peoples, Social Movements and Citizen Participation are responsible for monitoring and coordinating implementation of the plan.

II. Question 2

Given that the special theme of the ninth session of the Permanent Forum is "Indigenous peoples: development with culture and identity; articles 3 and 32 of the United Nations Declaration on the Rights of Indigenous Peoples", please include information on how your Government is dealing with this important issue.

12. The Government makes every effort to ensure that indigenous peoples and nationalities enjoy the right to self-determination enshrined in articles 2 and 32 of the United Nations Declaration on the Rights of Indigenous Peoples. Furthermore, the Ecuadorian Constitution emphasizes the enjoyment of rights as a condition for living well, and the exercise of responsibilities in the context of interculturality and

harmonious coexistence with nature (article 275 of the Constitution of the Republic of Ecuador).

13. By providing for the shift from a pluricultural, multiethnic State under the 1998 Constitution to an intercultural, plurinational one — a change of great significance in terms of national life — the new Constitution of the Republic of Ecuador directly addresses one of the most meaningful demands made by indigenous and Afro-Ecuadorian national movements in their efforts to build a society based on the principle of living well.

14. The National Plan for Living Well 2009-2013 (National Plan) supports the establishment of a plurinational, intercultural, constitutional State based on the rule of law and centred on the principle of living well (*sumak kawsay*). The plan constitutes a strategic tool for implementing the changes promoted by the 2008 Constitution in an organized, systematic fashion.

15. The National Plan outlines a vision of living well that expands the rights, liberties, opportunities and potential of human beings, communities, peoples and nationalities and guarantees recognition of their diversity in the effort to build a common future. Bringing this vision to life will require the State to undergo a series of changes, towards plurinationality and interculturality; capacity-building in the areas of administration, planning, regulation and redistribution; and lastly, a more profound engagement with deconcentration, decentralization, political integration and citizen participation.

16. The UNDP-administered Development and Cultural Diversity Programme is being carried out in order to implement the National Plan, the strategy of the Ministry of Coordination for Cultural and National Heritage, and the Declaration on the Rights of Indigenous Peoples. Financed by the Millennium Development Goals Achievement Fund, the joint programme focuses on the following three main areas: (a) strengthening intercultural public policies; (b) supporting initiatives for cultural and productive revitalization; and (c) building national capacities in local and national planning by generating statistical data on cultural and ethnic diversity.

III. Question 3

Obstacles to the implementation of the Permanent Forum's recommendations.

17. One problem is the lack of knowledge and information in Ecuador regarding the Permanent Forum and other United Nations mechanisms on indigenous issues. **It is recommended that the United Nations system, in cooperation with the national Government, increase awareness-raising efforts regarding those mechanisms in Ecuador.**

18. Another problem is the insufficient dissemination in Ecuador of the Permanent Forum's recommendations and information regarding their possible impact on the life of indigenous peoples. Moreover, no national institution has a sense of ownership in that area. The recommendations are addressed to States, the United Nations system, indigenous peoples, non-governmental organizations and others.

19. A third problem is that Government agencies lack specialized staff with awareness of international processes and their implications for a cooperative and committed relationship between the Government and indigenous peoples.

IV. Question 4

Facilitating factors for the implementation of the Permanent Forum's recommendations.

20. The United Nations Declaration on the Rights of Indigenous Peoples has been adopted and has received support from many Governments;

21. The Political Constitution of Ecuador has been approved. It recognizes the country as a multicultural and plurinational State. Efforts are being made to implement the National Development Plan.

22. The Development and Cultural Diversity Programme of the Ministry of Coordination for Cultural and Natural Heritage is being implemented. Efforts are being made to generate intercultural public policies, promote the economies of indigenous peoples and nationalities and generate statistical information disaggregated by ethnicity and gender. The programme is intended to initiate training processes on subjects relating to the protection and promotion of the rights of indigenous peoples.

V. Question 5

Does your Government have specific laws, policies or other similar tools to address indigenous peoples' issues in your country? If so, please provide details (unless covered in the responses to the above questions).

23. As established by the Constitution adopted in 2008, Ecuador is a plurinational and multicultural State which recognizes and guarantees the right of the authorities of indigenous peoples and nationalities to exercise juridical functions in accordance with their ancestral traditions and their law. Their own rules and procedures may be followed for resolving internal conflicts, provided that they are not counter to the Constitution and to the rights recognized in international instruments. The Constitution therefore provides that the law shall establish the mechanisms for coordination and cooperation between the indigenous justice and regular justice systems, without specifying that either of them should prevail, but rather recommending them as existing and current forms of justice that should be coordinated.

24. Pursuant to article 57 of the Constitution of the Republic, which provides for the ownership of ancestral lands and territories and the granting of land awards at no cost, the Ministry of Agriculture, Livestock, Aquaculture and Fishing and the Ministry of Policy Coordination, the Ecuadorian Institute for Eco-development of the Amazon Region (ECORAE), and the National Agrarian Development Institute (INDA) have granted the ownership of 40,315 hectares to three Achuar communities.

25. Under the current administration and in accordance with the new policy and the Land Plan, the Ministry of Agriculture, Livestock, Aquaculture and Fishing is beginning to adjudicate ownership of ancestral lands and territories in the following communities of the provinces of Morona Santiago and Pastaza: an area of 10,714 hectares in Wachirpas, 12,542 hectares in Mashuim and 17,059 hectares in Nuevo Sasaim. Justice is being pursued for those who inherited, were born and live in these lands and engage in productive work on them to support their families.

26. In December 2009, James Anaya, Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, visited the country at the invitation of the Government of Ecuador. The Ministry of Coordination for Natural and Cultural Heritage, with its Development and Cultural Diversity Programme, coordinated the visit in conjunction with the Ministry of Justice and Human Rights, the Secretariat of Peoples, Social Movements and Citizen Participation, and the United Nations system. On 11 February, the Rapporteur requested the national Government to provide complementary information to enable him to finalize the report on his visit.

27. The Rapporteur made a few recommendations including the following: the approach taken in the draft law on coordination of the two systems of justice is adequate; the law-making process should be inclusive and comprehensive; the procedures for reviewing judgements made in the indigenous justice system should be multicultural to ensure their legitimacy and validity.

28. The national Government, through the Ministry of Coordination for Natural and Cultural Heritage and its Development and Cultural Diversity Programme, is pursuing some specific initiatives to respond to the demands of indigenous peoples and nationalities. These initiatives include: (a) a proposal for a master's programme in multicultural public administration that covers the rights of peoples and nationalities; (b) a proposal for a diploma course in multicultural health for civil servants in the Ministry of Health so that a culturally appropriate health service can be offered and the system changed to take into account the world views of peoples and nationalities; (c) the inclusion in the 2010 Census of questions on self-identification, cultural identification and nationality; and (d) the creation of a credit line of $600,000 for productive enterprises, for peoples and nationalities living in the provinces with the largest indigenous populations.

29. The Secretariat of Peoples, Social Movements and Citizen Participation (Secretariat of Peoples), is the governing body which defines, coordinates and implements the public policy that guarantees the right to multicultural citizen participation and to the consolidation of peoples, social movements and citizenship. In this connection, the Secretariat of Peoples is engaged in ongoing dialogue to strengthen the social and organizational processes of the organizations of indigenous peoples and nationalities. It is also responsible for setting up ethnic equality councils,[4] establishing indigenous and Afro-Ecuadorian territorial districts, and devising comprehensive plans for living well for indigenous peoples and nationalities.

30. The National Secretariat for Migrants is the governing body which defines, coordinates and implements the migration policy of the Ecuadorian State, providing comprehensive services for migrants and their families, helping to enhance their capacities and potential and safeguarding their fundamental rights. Its specific competencies do not include the implementation of specific plans and projects for indigenous peoples and nationalities. However, the National Secretariat for Migrants provides services and supports programmes for migrants from Ecuadorian indigenous peoples and nationalities who emigrate to other countries and for persons arriving in Ecuador from indigenous communities in neighbouring countries.

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[4] Political Constitution of Ecuador, arts. 156 and 157.

VI. Question 6

Does your Government have a national institution (ministry, department, unit) as a focal point on indigenous issues? If so, please provide the name of such focal point and contact information.

31. The national institutions are:

Ministry of Coordination for Cultural and Natural Heritage
Address: Colón y Juan León Mera, Ministry of Culture, floor 2A
Telephone PBX: (593-2) 222 2071/222 1830
Fax: (593-2) 222 6807/2521 2521852852
Website: http://www.ministeriopatrimonio.gov.ec

Secretariat of Peoples, Social Movements and Citizen Participation
Address: Santa Prisca N12-1137 and Pasaje Ibarra, Quito, Pichincha
Telephone PBX: (593-2) 2976700
Website: http://www.secretariadepueblos.gov.ec

Council for the Development of the Indigenous Nationalities and Peoples of Ecuador (CODENPE)
Address: García Moreno N 5-48 (1150) and Chile, Quito, Pichincha
Telephone PBX: (593-2) 2581319
Fax: (593-2) 2581361
Website: http://www.codenpe.gov.ec
E-mail: pueblos@codenpe.gov.ec

National Directorate for Bilingual Intercultural Education of Ecuador
Address: Av. Amazonas N34-451 between Av. Atahualpa and Juan Pablo Sánz, Ministry of Education, sixth floor, Quito, Pichincha
Telephone: (593) 3 961 3567/3 961 358/3 961 364
Website: http://www.dineib.gov.ec

National Directorate for the Health of the Indigenous Peoples of Ecuador
Address: Av. Republica de El Salvador #950 and Suecia, Quito, Pichincha
Telephone: (593) 381 4400 Ext. 9459
Fax: (593) 381 4400 Ext. 9459
E-mail: dnspi@msp.gov.ec
Website: http://www.msp.gov.ec/dnspi

Development Fund for the Indigenous Nationalities and Peoples of Ecuador
Address: Buenos Aires and 10 de Agosto — Merino BHU building, fifth floor, Quito, Pichincha, Ecuador
Telefax: (593-2) 223 6514/223 0671
Website: http://www.fodepi.gov.ec

Ecuadorian Institute for Eco-development of the Amazon Region (ECORAE)
Address: González Suarez s/n and Céslao Marín, Puyo, Pastaza
Telephone: (593) 03288 9130
E-mail: ecorae@ecorae.gov.ec
Website: http://www.ecorae.org.ec

Ecuadorian Institute of Intellectual Property (IEPI)
Av. República 396 and Diego de Almagro, FORUM 300 building, Quito, Pichincha, Ecuador
Casilla Postal: 89-62
Telephone PBX: (593) 2 250 8009/2250-8001/2250-8003/2250-8004
Fax: (593) 2 250 8027
E-mail: presidencia@iepi.gov.ec
Website: http://www.iepi.gov.ec

VII. Question 7

Does your Government have a regular capacity-building programme on indigenous issues for national civil service staff? Alternatively, is there an ad hoc capacity-building programme or a plan for capacity-building activities in this area for relevant civil service staff?

32. The Ministry of Coordination for Cultural and Natural Heritage, through the Development and Cultural Diversity Programme, has provided technical assistance and training to State institutions for development planning and for incorporating the intercultural approach in the activity of ministries. It has provided consultancy services to help prepare a proposal for a postgraduate course in public policy, interculturalism and human rights, which will enhance the training of authorities and civil servants working in those areas. The course will be conducted by the Institute of Higher National Studies (IAEN), the equivalent of a school of government.

33. The Ministry of Coordination for Cultural and Natural Heritage has also arranged two training workshops on cultural heritage management, the design of intercultural public policies and the management of intangible heritage for 120 staff members of the National Institute of Cultural Heritage in the provinces of Chimborazo, Tungurahua, Manabi and Santo Domingo.

34. In November 2009, the national Government, through the Ministry of Coordination for Cultural and Natural Heritage and in cooperation with the United Nations country team, invited the team of trainers of the Secretariat of the Permanent Forum on Indigenous Issues to a workshop on awareness-raising for indigenous issues and interculturalism, which was attended by civil servants from about 15 ministries. It should be noted that this was the first training workshop on indigenous issues with a Latin American Government.

35. The Secretariat of Peoples, Social Movements and Citizen Participation is implementing the national civic training system, which is intended to provide a conceptual framework and the necessary tools to exercise citizenship in a more active and committed way with an understanding of the issues of interculturalism, plurinationalism and the collective exercise of rights in order to implement citizens' power and promote the exercise of individual and collective rights.

VIII. Question 8

Please provide information regarding your Government's promotion and/or implementation of the United Nations Declaration on the Rights of Indigenous Peoples.

36. In the past decade the Government of Ecuador has focused on the progressive implementation of International Labour Organization Convention No. 169. In addition to ratification of the Convention, a chapter on collective rights has been included in the new Political Constitution of 2008. However, the approval of the United Nations Declaration on the Rights of Indigenous Peoples (2007) has strengthened the recognition of indigenous peoples. We should therefore recognize that familiarity with the contents and significance of the Declaration is still in the initial stage and efforts to use it as an international instrument for the implementation of public policies are only just beginning.

37. The national Government has issued invitations to the special rapporteurs, Mr. Stavenhagen and Mr. Anaya, on various occasions, and they have prepared a series of recommendations. When the Declaration was approved, their recommendations and indigenous peoples' ownership of that international instrument had a significant influence on the preparation of the new Constitution.